



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Docket No. 400188)

In re the Application of:)
DOMINGUEZ ET AL.)
Serial No.: 10/681,602) Art Unit: 3763
Filed: October 8, 2003) Examiner
For: DELIVERY SYSTEM USING BALLOON)
SYSTEM)

TO: MAIL STOP: NON-FEE AMENDMENT
Commissioner for Patent
P.O. Box 1450
Alexandria, Virginia 22313-1450

PRELIMINARY AMENDMENT

Dear Sir:

Preliminary to an action on the merits, applicants wish to expedite the prosecution of this application by submitting Declarations Under 37 C.F.R. §1.131, swearing behind Chien et al. U.S. Patent No. 6,527,790.

In the parent application, Serial No. 09/878,530 filed June 11, 2001, claims 1-9 which are the same as claims 1-9 of the instant application, were rejected under 35 U.S.C. §102(e) as being anticipated by Chien et al. (U.S. Patent No. 6,527,790). As pointed out in the Declarations under 37 C.F.R. §1.131 filed with this preliminary amendment, applicants' invention was conceived prior to December 7, 2000, the filing date of Chien et al., and there was due diligence from prior to December 7, 2000 to June 11, 2001, the effective filing date of the instant application. Therefore, Chien et al.

U.S. Patent No. 6,527,790 should not be applied as a reference against applicants' claims.

Examination on the merits is respectfully requested.

Respectfully submitted,
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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to: Mail Stop: NON FEE AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on March 3, 2004.



Registered Attorney for Applicant
Date: March 3, 2004